

Your Name Werner Uhlig  
 Address 7762 W. Hi Country Rd  
Herriman, Ut. 84096  
 Phone Number 801-763-8297  
 Email wuhlig111@msn.com

UTAH PUBLIC  
SERVICE COMMISSION

2014 JUL 21 P 1:06

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IN THE UTAH [SUPREME COURT] [COURT OF APPEALS](circle one)

PETITION FOR REVIEW

Werner Uhlig,  
Petitioner,

vs.

PSC,  
(Agency) Respondent.

Appeal No. \_\_\_\_\_  
 Agency Decision No. 13-7195-02

Notice is hereby given that Werner Uhlig (your name), petitioner, petitions the Utah (Supreme Court) [Court of Appeals](circle one) to review the (order) [decision](circle one) of the respondent made in this matter on June 19, 2014 (date).

This petition seeks review of the entire (order) [decision](circle one).  
 OR

This petition seeks review of such part of the (order) [decision](circle one) that states that

a standby-fee is legal and just in the  
Dollar Amount of \$ 31.75 per new water  
users.

Petitioner requests the court to direct the respondent to prepare and certify to the court its entire record, which shall include all of the proceedings and evidence taken in this matter.

R A (Reviewed/Approved)

☒ ☐

Ron Allen

(signature)

☒ ☐

David R. Clark

☒ ☐

Thad LeVar

Administrative Law Judge

Melanie Reif

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Werner Uhlig - Petitioner  
7762 W. Hi Country Rd  
Herriman, UT 84096  
Phone: (801) 363-8297  
[Wuhlig111@msn.com](mailto:Wuhlig111@msn.com)

July 18th, 2014

Utah Supreme Court  
PO Box 140210  
Salt Lake City, UT 84114-0210

### Petition for Judicial Review

In the name of justice, equality and non-discriminatory conduct, I write to you as a last resort in a seemingly hopeless situation. Attorneys told me, a successful outcome in my case would cost me between 25,000 and 30,000 dollars which I do not have, but I believe justice cannot be only for wealthy people in this great country. The discrimination is obvious. Two water systems serve the home owners in an association: one is the so called water company (91 members majority) and the other is the well owners (35 members minority), and only the majority is being financial supported by Water rates and stand by fee's now issued by the PSC.

It is unjust to establish a special fee for the minority of all home owners who rely on their own private wells for water. I am one of those home owners with a private well and I do not think the imposition of a "standby fee" is legally tenable. If there is a need for it, then it should be assessed equally on all home owners; there is no justification for charging some home owners more than others. Those of us who are not connected to the water system accept the principle that all owners have an equal obligation to contribute to its maintenance, but when the HOA devises a scheme whereby those who don't use the water system see more rapid increases in their annual contributions to the cost of the system than those owners who do use it – well, then it is obvious that the majority is finding a way to exploit the minority.

All improvements, maintenance, service and repair or replacement cost for the infrastructure of the "High Country Estates", which includes the "water company", is and should be covered thru assessments which are paid annually by the HOA residents and is evenly and fairly divided to the same dollar amount for every member of the HOA. And of course by water rates for water usage. According to the Protective Covenants for the Hi-Country Estate and By-laws, there is no mention of any extra fees. There is only mention of an annual assessment fee.

In assessing a standby fee for the minority well owners (35), the HOA majority is gaining financial benefits, annually, in the amount of \$13335.00 at the present rate (\$31.75) set by the PSC. Of course the majority which includes HOA- and water company directors always vote and argue for standby fee increases because it brings down the dollar amount of the annual assessment which everybody must pay. This means by an assessment of \$550.00 yearly, the minority well owners will pay 70% more to the HOA treasury than the majority without any benefits whatsoever. This preferential, unjust ruling discriminates minority well owners to pay a fair share, as supposed to be by law.

The notion is that the majority well owners are discriminating against the minority well owners only addressing their own specific water needs. Repair, maintenance, service and replacement costs do not

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exist for minority well owners, so they can help pay 70% more than the majority. But reality shows I just paid \$3650.00 for a new well pump with no help from the majority whatsoever. The so called Water Company is a private entity owned by the HOA, which means every home owner within the HOA owns part of it, which gives me pecuniary interest and standing and so I gave sworn testimony to the PSC.

It is always possible to argue – as HOA has done – that the existence of the water system provides a benefit to those who have their own systems, but obviously it is an un-requested benefit. How would the users of the water system like it if a majority of the HOA was non-users and imposed ever higher maintenance fees on the users because the non-users don't cause wear and tear on the system and don't ever contribute to the need for system upgrades? These are obviously benefits provided by the non-users but to tout them as good reason for making water system users pay more each year in annual fees than the non-users do would undermine the sense of communal harmony that the HOA presumably would like to preserve.

Attorneys for the HOA content that I have no standing to request review or rehearing and that I misunderstood the approved water rates structure and rationale. Their statement clearly shows an attempt to obscure the facts and create confusion to hide the discriminatory effect of the standby fees. All of a sudden, but only after challenged, disclosure is made; standby fees are embedded in the basic water rates for the majority water users. But this cannot be true. On the contrary, tariff no. 1 from 11-14-2012 for HOA water service states with B. Service Rate Schedule under rule 7: "Standby fee: The Standby fee applies to property owners within Hi-Country Estates Phase 1, Beagley Acres, and South Oquirr subdivision who are NOT receiving Water from the company's water system". This is also stated in Tariff NO. 2 from 5-28-2013 (PSC Docket No. 12-2195-01) with B. Service Rate Schedule under rule 8 "Monthly Standby fee: The Standby Fee applies to each lot within Hi – Country Estates Phase 1, Beagley Acres and South Oquirr subdivision who is NOT receiving water from the company's water system." If those rules are amended or changed, the discussion would be recorded in the minutes of the quarterly HOA meetings, which is clearly not the case.

The justification of the HOA for standby fees in the event of a fire is superficial. Water drawn from any one hydrant could easily be determined by simply taking note of how long water is drawn from it. Water pressure and discharge nozzle diameter are given, so the computation of water use is simple and straightforward. Why not simply charge lot owners for the amount of water drawn from their individual hydrants in the event of a fire? But even if this notion is somehow too revolutionary, there is no justification for levying punitive fees on a non-user of a water system.

For the last 30 years my lot did not get any service or benefits from the water company and I have no intention to get anything in the future and I am wondering which rule or regulation could force me to lose my independence.

It is understandable that the PSC has been overwhelmed by the Dansie case which was in litigation for over 30 years. As a result the PSC was persuaded to follow the recommendations of the HOA and thus preventing them from considering the standby fees that affect all 35 well-owners.

High Country Estate's notice only rather cryptically invited people to lodge comments, and the PSC's September 24 notice establishing a late December 2014 deadline for people to intervene provided no explanation for what intervening even means or what technical steps a person must take to officially intervene in the case. In other words, unless a layperson consults with their attorney about the matter, they would have no idea that formally petitioning to intervene in the case was required to establish appeal rights.

With a disregard for fairness and equality the PSC is in error regarding their ruling of the "stand-by fees".

Sincerely,

  
Werner Uhlig

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CERTIFICATE OF SERVICE

I, Werner Ubbig (your name) hereby certify that on July 21, 2014 (date) I served a copy of the attached Petition for Review upon the party(ies) listed below by [mailing it by first class mail] personal delivery (Circle one) to the following address(es):

Utah Public Service Commission  
Heber M. Wells Building  
160 E. 300 St.  
Salt Lake City, Ut. 84114

and a true and correct copy of the foregoing Petition for Review was [deposited in the United States mail] [hand delivered] (Circle one) to the agency listed below:

PSC  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: Werner Ubbig  
Signature

Dated this July 21, 2014.

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